

## **PLANNING COMMISSION MINUTES**

**December 1, 1999**

**CALL TO ORDER:** Chairman Maks called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

**ROLL CALL:** Present were Chairman Dan Maks; Planning Commissioners Charles Heckman, Tom Wolch, Vlad Voytilla, Sharon Dunham and Don Kirby. Eric Johansen was excused.

Staff was represented by Principal Planner Irish Bunnell, Senior Planner Steven Sparks, Associate Planner Jeff Salvon, Assistant City Attorney Ted Naemura, and Recording Secretary Cheryl Gonzales.

Chairman Maks opened the public hearing and read the format for the meeting.

### **OLD BUSINESS**

#### **CONTINUANCE**

##### **A. TA99-00009 - UTILITY UNDERGROUND TEXT AMENDMENT**

(Continued from October 13, 1999)

This City-initiated proposal would, if approved, amend the Development Code to allow the collection of “in-lieu” fees as an alternative to placing utilities underground as currently required by the Development Code. The proposed text amendment would add a new section to Chapter 60 and amend several sections within Chapter 40 of the Development Code. Additional amendments to Ord. 2050 text may be necessary in order to assure internal consistency with the proposed text amendments.

Mr. Sparks noted for the record, that the City proposed under Section 1 is new text to be added to the Development Code. Sections 2, 3 and 4 of the proposed text amendment were amendments to existing Development Code text. At the October 13, 1999, meeting, the Planning Commission had extensive deliberations regarding Section 60.55.40, (page 4 of 10 of Exhibit A), concerning negotiation of “in-lieu” fees. This proposed Section would allow the City Engineer to negotiate the fees to be submitted as “in-lieu” fees. Since the last meeting, staff has met with the Community Development Director, the City Engineer and other staff to discuss the specifics of text and for what the negotiation section was intended. The conclusion was that with minor modifications to other sections of the text, the negotiation section was not needed. The Commission previously asked staff to provide alternative ideas for negotiation. City Engineer stated that based on the text as proposed for the December 1 Planning Commission

meeting, he felt the negotiation section was no longer necessary. The City Engineer felt that most of the time, when main trunk lines with 50,000 volts and higher are used, in his experience, negotiations would be necessary. Since those facilities are exempted from underground utilities, the City Engineer felt the vast majority of situations requiring negotiation would be eliminated.

Mr. Sparks noted minor edits to the text:

On page 2 of 10, Section 60.55.20, items 1-4 (Information on Plans) replace period (.) with semi-colon (;). On page 3 of 10, Section 60.55.25, in first paragraph before subsection 1, add in bold heading **CRITERIA**. Under the table in the same section, the highlighted text states in second line: subsection 3; change the word subsection to Criteria. Again in the same section, Criteria #2, the last line should be changed to read: "and constructed in other road improvement projects." On page 6 of 10 and page 7 of 10, Subsection C.1.h. the words "where practical and feasible" should be deleted.

Chairman Maks noted that on page 1 of 10, the last sentence which reads ". . . projects where undergrounding will require boring under a major collector or arterial roadway." To be consistent, the City no longer refers to collectors as major or minor.

Commissioner Heckman - page 2 of 10, section 60.55.20, new #4, substitute comma (,) for period (.) after "traffic" and before "and."

Commissioner Kirby agreed with earlier comments, however on page 2 of 10, the last sentence was "orphaned." Questioned what this paragraph refers to. Mr. Sparks, in answer to Commissioner Kirby's question, suggested to add the words "site development permit application" as part of the requirements for applicant in the first paragraph of Section 60.55.20.

Commissioner Kirby questioned the use of the words "criteria" and criterion." Mr. Bunnell stated that "criteria" indicates the plural and "criterion" the singular.

Commissioner Kirby questioned changes made, as an example going from 600 to 500, is this tied in with removal of negotiations or why were changes made? Mr. Sparks answered that as a group, they went through the entire section. The original point was to discuss negotiation. Discussion lead to questions which ultimately defined thresholds.

Commissioner Kirby confirmed that the discussions were with Mr. Duggan and asked if there was any public comments raised from these issues? Mr. Sparks responded that when they sent out the Ballot Measure 56 Notice, they received approximately 250 phone calls. Each caller was advised about the project. Commissioner Kirby restated the question asking if since the last meeting, had there been any public comment? Mr. Sparks answered that there has been no public comment received since the beginning of the project on this particular text amendment, other than from citizens who thought the City was eliminating the requirement for underground utilities.

Commissioner Dunham had a question regarding page 2 of 10. After reviewing the minutes of the October 13, 1999, meeting, and the public testimony from Jack Franklin, the “convert” is still used on page 2 of 10. Had they had a chance to consider changing this word to “rearrange”? Commissioner Dunham stated that someone in the business might question the semantics. Mr. Sparks said that when the text was prepared, PGE, GTE (ATT now) and other service providers reviewed this text and they did not mention it.

Chairman Maks stated he had not received any request for public testimony so he closed that portion of the hearing.

Commissioner Heckman believed that after three hearings, the staff has done a good job. He reviewed the issue very carefully and believed it met the intent of the City concerning underground utilities in the future. Commissioner Heckman fully supported the amendment.

Commissioner Wolch was fully in support of the text amendment and believed the staff had done a very good job of “pulling it together.” Most of his experience in utility work had been related to road projects. If one compares Murray Boulevard to the recently completed Farmington Road, there is no question that it looks much better to have the utilities underground. Many benefits are evident, like the wind not knocking down wires, and lower maintenance. In this spirit, he fully supported the text amendment.

Commissioner Voytilla agreed with the other Commissioners’ comments as to the excellent job that staff had done, particularly with keeping up with the critiquing during the previous two hearings. He was in support of the text amendment. He stated that he felt that it was an issue that will probably require monitoring to see how well it will work. He would like to see a follow-up in the future to let them know if there are any glitches.

Commissioner Kirby commended staff and Mr. Sparks for doing a good job. He appreciated staff focusing on particular points from session to session and highlighting the points for the Commission. He also appreciated the extra effort with refining the “real meat” regarding putting a cork in the negotiation process, and making sure that it would work once it was done. Commissioner Kirby supported the text amendment.

Commissioner Dunham was also in full support of the text amendment. It has been a long road and it is good to be at the end of it.

Chairman Maks believed the application meets the criteria as stated in the Staff Report and he “takes his hat off” to staff also. As Commissioner Voytilla stated at the first hearing they were very loud. At the second hearing they came up with items that were not thought about in the first hearing. Considering the plethora of issues raised, the staff did a great job.

Commissioner Voytilla also wanted to state that he appreciated the minutes from the prior meeting. Very helpful and timely.

Commissioner Voytilla MOVED and Commissioner Kirby SECONDED a motion to approve Text Amendment 99-00009, Legislative Development Code Undergrounding Text Amendment, based on the findings of facts contained in the Staff Report as amended dated November 24, 1999.

Commissioner Dunham offered a friendly amendment to change the word “converting” to “rearranging” on page 2 of 10 in Section 60.55.15(6).

Mr. Bunnell asked if he could make a statement concerning changing to the word “rearranging.” He stated that a red flag went up when he considered the facilities may be required to be different, thus a requirement to be converted and not simply rearranged from one place to another. He believed that “converting” covers both situations.

Commissioner Dunham withdrew the friendly amendment.

Commissioner Heckman asked Chairman Maks if the word “rearranging” means that they do not add any new components. “Convert” means that they could be adding new transformers, etc. Chairman Maks answered yes.

Commissioner Heckman asked if the motion maker included page 2 of the Staff Report, added the new section and amended the different sections? He asked if the recommendation is approval of page 2 of the Staff Report?

Commissioner Voytilla responded with regard to page 2 of the adjustments that staff read into the record as well as moving reference of the lower paragraph for submission of materials with the site development application to be moved to the first paragraph of that section. They were moving the Staff Report and the recommendations.

The question was called and the motion CARRIED unanimously.

## **NEW BUSINESS**

### **PUBLIC HEARINGS**

The Commission considered New Business items A-C under one discussion.

#### **A. CPA99-00022/RZ99-00013 - HENDRICKSON COMPREHENSIVE PLAN MAP AMENDMENT AND REZONE**

This proposal would add tax lot 1S105AD06000 to the City of Beaverton plan and zoning maps and reassign Washington County’s R5 plan designation to the City of Beaverton’s Urban Standard Residential Comprehensive Plan designation and R7 zoning district. The site is located at 450 SW 150<sup>th</sup> Avenue and is approximately 1.98 acres in size.

**B. CPA99-00023/RZ99-00014/FS99-00014 - MURRAY RIDGE COMPREHENSIVE PLAN MAP AMENDMENT, REZONE AND FLEXIBLE SETBACK**

This proposal is to add tax lot 1S1 32C 00201 to the City of Beaverton plan and zoning map and reassign Washington County's R9 plan designation to the City of Beaverton's Urban Standard Residential Comprehensive Plan designation and R5 zoning district. The site is located within 100 feet of Scholls Ferry Road in the southern portion of the City and is approximately 19.52 acres in size. A formal request was submitted to qualify for the flexible setback provision permitted under the City's Development Code Section 40.15.15.2 to retain the setback standards approved in the Planned Unit Development application by Washington County.

**C. CPA99-00024/RZ99-00015 - LODATO COMPREHENSIVE PLAN MAP AMENDMENT AND REZONE**

This proposal is to add 25 tax lots to the City of Beaverton's Plan and Zoning map and reassign Washington County's R-6 and Institutional Plan map designation to the City of Beaverton's Urban Standard Residential and Schools and Parks Comprehensive Plan designations and R5 Zoning District. The sites are located along the western City boundary and total approximately 30.46 acres in size.

Chairman Maks asked if any members of the Commission who wished to declare an ex parte contact or conflict of interest upon the following requests or for any reason disqualify themselves from participation.

Commissioner Heckman responded that he lives in one of the areas which has been very controversial. He has stayed out of the matter completely, even though approached by many of the residents. If the Chairman would like him to be dismissed, he would oblige.

Chairman Maks asked for further comments with regard to disqualification or if any one would like to challenge the right of any member of the Commission to participate in the hearing or ask that the hearing be continued to a later date. There were none.

Mr. Jeff Salvon presented the Staff Report and noted the report is for three comprehensive plan amendments and rezones for three properties, all of which have been recently annexed. For the record, the agenda does not state under the Murray Ridge plan that there is also a flexible setback request included. All three were dictated under the conditions criteria of the Urban Planning Area Agreement, dictated by the City and the County. It is basically an administrative function with the exception of the flexible setback request. This is not in the Urban Planning Area Agreement, but it is in the code and is allowed. The developer has requested that he have the freedom to use the flexible setback. Mr. Salvon expressed that everything should be in the Staff Report but he would answer any questions.

Commission Dunham asked if there were two flexible setbacks being reviewed. Mr. Salvon stated no, only one.

Commissioner Dunham questioned Mr. Salvon's statement that the flexible setback was for Lodato, but was it actually for Murray Ridge. Mr. Salvon agreed it is Murray Ridge.

Commissioner Dunham questioned on page 2 of the Staff Report, under the recommendations to the Planning Commission that CPA99-00024/RZ99-00015 included the flexible setback. She noted that this flexible setback should be included for the Murray Ridge property, not the Lodato property.

Commissioner Dunham asked regarding the Hendrickson rezone, how much net buildable land is available out of the 1.98 acres? Mr. Salvon did not recall what factor is applied to the gross to come up with a net figure, but he stated that it does exclude the BPA right-of-way. Commissioner Dunham asked if the piece of land east of the right-of-way would be unbuildable? Mr. Salvon answered yes.

Commissioner Dunham asked if this project were to go forward for approval, the Staff Report (page 6) after italicized text states, "In response to this provision, staff recommend that the City's bicycle plan be amended to include this section of the property." Commissioner Dunham questioned whether this takes a form of a condition of approval? Chairman Maks answered no. Commissioner Dunham then reflected that it would then become part of the natural resource map on the right of the property.

Commissioner Heckman had several questions. On page 6, under item #2, he would like to know the history of this item. Chairman Maks questioned if he was asking how the annexation came forward.

Commissioner Heckman stated that there have been many discussions as to whether it is correct, questions about what the County approved and what the City approved.

Mr. Salvon responded that originally the property was owned by the Christs, two sisters, who sold to the Boy Scouts of America, requesting with a verbal agreement (he believed) that it be preserved and not developed. The Boy Scouts sold it to a developer, and when the Christs found that the developer had the ambition to develop the property, they appealed all the way to LUBA. LUBA dismissed the case, based upon the fact that there were no grounds for the case, it was not a land use issue. At that time, the developer was required to annex into the City in order to extend a water line that would serve his subdivision. The City of Beaverton, the County, and the Boundary Commission were involved in this project. The County then did not respond within the 120 day review period, and the developer then obtained a writ of mandamus to force the County to approve the application as proposed. There was also a dispute about legal fees. The developer then submitted their plat for approval with the County, and the County approved it. Once it was annexed to the City, some of the property owners had a

problem with the design of the development, they were concerned about erosion. The property then changed hands. The new developer wanted to take some of the concerns into consideration, thus they revised their design. The annexation was appealed. Mr. Salvon believes that this action countered the good faith effort that the developer had taken to redesign the development. As a result, the developer withdrew the revised design. The plat was then resubmitted to the City as a modification of the design (minor change in design elements). He stated that this is where the project stands now. This rezone is to apply the City's zoning, which is analogous to what the County had it zoned.

Commissioner Heckman stated that Mr. Salvon implied on page 7 of the Staff Report that the flexible setback transferred from Washington County. Mr. Salvon agreed that it was transferred from the County and that is a correct statement. He could not find anything in the file of conditions of approval by the County that alter what the original request was regarding setbacks, that the original developer submitted to the City.

Chairman Maks asked if the original application that went beyond the 120 and/or the plat approved by Washington County allowed the flexible setback? Mr. Salvon agreed that it allowed the setback that was set forward.

Chairman Maks continued that in the process, when someone came forward to the City, was a new plat presented or a modification of the existing plat? Mr. Salvon replied that it was a modification of the existing plat.

Chairman Maks clarified that what they were dealing with was an application as designated by a plat that has those setbacks. He asked Mr. Salvon if that was correct. Mr. Salvon replied that the Chairman was correct.

Commissioner Heckman asked Mr. Salvon about the writ of mandamus which was issued. He asked if there were any conditions attached to that writ that the City of Beaverton is aware of that they must enforce or may not be able to enforce?

Mr. Salvon answered that he assumed that the writ was basically to approve the application, and asked Mr. Naemura if those issues surrounding the plat necessarily affect the decisions decided at this meeting based upon the criteria.

Chairman Maks stated that it has nothing to do with the Comprehensive Plan Amendment or the rezone, but as far as he knows concerning the flexible setback, if the setback was part of an application or plat that is deemed complete and approved by Washington County, the Commission can not change it. If that is true, the Commission must adopt it as the previous jurisdiction approved the land use.

Mr. Salvon was advised by the attorney of the developer that there were three conditions attached to the writ of mandamus. Commissioner Heckman asked if Mr. Salvon had the

conditions, or if the counsel for the developer would speak to the Commission and explain the conditions. Mr. Salvon stated that the conditions were basically to approve both the subdivision and the PUD.

Commissioner Heckman wanted to explain his concern that other things were brought up that were not in the Staff Report for which he wanted to find a basis.

Commissioner Voytilla, referring to page 6 of the Staff Report, the discussion of District B overlay which Washington County realizes for the mineral aggregate resource areas, stated that Beaverton does not have an equivalent. Mr. Salvon responded that the quarry for which the language was written in the Plan, is being subdivided now.

Commissioner Voytilla wanted to make clear that the overlay essentially by this action is now removed. Mr. Salvon was not sure as to whether the overlay was removed. Commissioner Voytilla asked what the process might be for the removal of the overlay. He stated that it is a zoning, land use issue. Mr. Salvon replied that it was probably a land use issue with the County. He spoke with the County staff and was told that it was basically a void issue.

Commissioner Voytilla inquired whether the overlay automatically goes away because of the annexation. Mr. Salvon responded that under the current status with the County, he did not feel it needed to be addressed by the City.

Commissioner Voytilla was concerned that if the property goes through any type of application in the future, the overlay would be a cloud on the property which would require certain things.

Chairman Maks stated that this is like resource areas that are identified in the Community Plan within Washington County, and once annexed, how does the City treat them? That is why the City has a new annexation policy coming next week which will specify and define how the Commission takes the information, what is studied and what is not studied. This plan is not in place now, nor has it been.

Mr. Salvon stated that part of the annexation process was to forward reports to the County and ask them to comment and provide some of the requirements which should be addressed, in the process of converting their plan to the City's plan. The County is so understaffed at the present time that they have given the City the authority to make those recommendations. When he did talk with the County regarding this matter, they told him it was a non-issue.

Commissioner Voytilla reiterated that it could be a cloud that hangs over things and it would be nice to get rid of it. Also, on the top of page 6, the second paragraph, there are some amendments recommended for other documents, for instance the bicycle plan, and others relative to natural resources issues. He asked Mr. Salvon if those were being done, since those are items which do not need to be done by the Commission? He asked if recommendations needed to go to some of the other groups? Mr. Salvon replied recommendations are not

necessarily needed to the other groups. He is making the recommendations to the City of Beaverton that need to be addressed.

Commissioner Voytilla continued that on the bottom of page 9, discussion on 170<sup>th</sup> improvements under Washington County, he did not see the reason for including this in the Staff Report when the Commission is looking at a zone change. Is it pertinent? Mr. Salvon replied that areas of special concern need to be addressed (County sub-area policies as in their plan). This is how he addressed this issue, indicating that the County is redesigning 170<sup>th</sup> Avenue. The issue of special concern is egress and ingress of the parking lot at Cooper Mountain School. That is being addressed by the County and the City at this time.

Commissioner Voytilla questioned top of page 11. Segment of Hart Road, next to the school sites has not been vacated as he understands it, it is just blocked. By annexation, is the City now taking over that strip? Mr. Salvon replied yes, it is closed off and the City has no plans to open it up.

Commissioner Voytilla also noted that the word "Aloha" was misspelled in the third line on page 11.

Commissioner Kirby requested an explanation of the table on table 4 on page 8 to clarify. The original plat was 25 lots and is now 23 lots. Mr. Salvon confirmed this understanding explaining that one of the lots was a water retention basin.

Commissioner Kirby further questioned as looking at the table, does the flexible setback apply to all of the 23 lots, or are there specific lots to which the flexible setback would not apply? Mr. Salvon replied that the flexible setback applies to the entire parcel.

Commissioner Kirby asked further if he compared under the City R5, if the Commission is dealing with County R9 attached or County R9 unattached? If the difference is that approval is with the standard of 20 feet, would the front setback be 15 feet? Is the garage setback unchanged? Are the side setbacks unchanged at 5 feet?

Mr. Salvon replied yes, it is his understanding that the difference is 5 feet and the garage setback is unchanged and the side setbacks are unchanged at 5 feet. There was some question as to that issue. They just revised their flexible setbacks if there is an attached housing unit, such as a duplex sharing a common wall, the argument might be raised that since you have 5 feet on either side, you should have 10 feet on one side.

Commissioner Kirby indicated that the reason the chart shows "0" is that is where it indicates a duplex.

Mr. Salvon responded that in the original plan, it was attached housing, but developers now consider placing duplexes on the site. Commissioner Kirby asked then if the rear is 25 feet

versus 20 feet. As this parcel comes into the City, it comes with a 15 feet front, 20 feet rear and 15 feet on the garage in the rear? Mr. Salvon responded that all of column on the right is everything that was approved by the PUD when they approved the plat.

Commissioner Kirby asked the significance of the footnotes. Mr. Salvon replied that the significance is where they break from the standard is the first star, to show the exception.

Commissioner Kirby explained he was confused by the three asterisks on the attached for the garage, because there did not seem to be any difference, and there did not seem to be any difference on the side setbacks. Yet there are asterisks. Mr. Salvon responded that the PUD proposal did not request any specific setbacks where there were three asterisks, so it defaulted to what the County already had in its zoning. Commissioner Kirby asked if that happens to be the same standards that the City has. Mr. Salvon agreed.

Commissioner Kirby then stated that it is okay, at least on the front garage. He then asked either the Chair or staff if Commission could not alter these setbacks for the specific application this evening? Chairman Maks stated that Commissioner Kirby was correct.

Commissioner Heckman asked if the Commission could be less stringent. Chairman Maks responded that if the City's is 20 feet and the County's is 10 feet, then it is not a point of discussion. It comes in as 10 feet. If the County's was 10 feet and it went through a land use process, and was made 8 feet, it would have to come in as 8 feet and stays at 8 feet and is not a point of discussion. He does not know if could be made 4 feet. As it stood, he could not make it 4 feet that evening because the reason for the meeting was for a CPA and RZ and they did not have an application before them requesting a setback reduction to 4 feet. Since there was no request, they would not do it. Chairman Maks checked with the City attorney for disagreement, there was none.

### **PUBLIC TESTIMONY**

**Michael Robinson**, Attorney at Law with Stoel Rives, LLP, 900 SW 5<sup>th</sup> Avenue, Suite 2300, Portland, OR 97204 stated he was addressing CPA99-00023/RZ99-00014, and represented property owner D.R. Horton. Mr. Horton supported the application and hoped the Commission would approve it.

Commissioner Heckman asked the name of the property owner, which developer, and for which application he was in support. Mr. Robinson replied Murray Ridge is the development and D.R. Horton is the owner.

Commissioner Heckman asked Mr. Robinson what conditions were attached to the writ of mandamus, conditions which the City of Beaverton is in charge of enforcing? Mr. Robinson responded that the land use decision was received from the County. Also, after Judge McElligott heard the evidence on Aspen Ridge's writ of mandamus, he found in favor of the

petitioner, found the County had not met its burden of proof, so he ordered the County to approve it with the conditions the staff recommended, plus added three conditions. One of the requirements was that the intersection of 155<sup>th</sup> and Scholls Ferry be constructed prior to occupancy. That is being done. Another requirement was about erosion control. These were essentially things that Christ, as an intervenor respondent in this case, asked for. The judge found in favor of the petitioner for Murray Ridge but also thought some of Christ's positions were reasonable, and that is where the three conditions came from. All of these conditions (the three judge-imposed conditions and the recommended staff conditions) were adopted by the County in its order as a result of the judge's decision.

Commissioner expressed his concern whether any of the conditions attached by the Judge might be hard for the City to enforce or to live with. Mr. Robinson reiterated what Mr. Salvon stated which was that this process/application has had a lot of opportunity for everyone to comment on it. His sense is that everyone is happy about the conditions, the applicant is comfortable with them and intends to abide by them, and the City has sufficient force and means to see that they are followed. Mr. Horton has tried to make improvements to the subdivision to make a better subdivision than Aspen Ridge.

Chairman Maks interrupted and stated that the application is a CPA/RZ application, not a development application.

**Michael Strickler**, 15680 SW Bobwhite Circle, addressed CAP99-00023/RZ99-00014. He stated his property backs up to Murray Ridge development. The three conditions mentioned by Mr. Robinson were listed in his letter written months ago. He was glad they addressed those issues. He has had some erosion problems from that property before it was developed, and had concerns for that reason. Mr. Strickler was unclear about "plat changes" and "modifications" and a developer wanting to change from an attached to an unattached. He asked exactly what is going to be developed along the adjoining lots to Murray Ridge. The setbacks "kick in" a little differently if attached, the rear being 10 feet for the structure, which will make the structure right on top of him, looking down on his yard. The gradient has raised the degree of the home site behind Mr. Strickler to the level of his 6 feet fence. His privacy is being sacrificed, which he was aware was going to happen when he purchased seven years ago. He had not seen a plat for some time and would like to know what the property lots will be.

Chairman Maks responded that the City is taking in the ground from the County that has a land use designation that specifies the density and the zoning. They are adopting it to the City's density and zoning. There is an agreement, UPAA that is agreed to by the Washington County Commissioners and the City of Beaverton City Council. The five units per acre (in the County) equates to the City's five. There is a chart which states that if there is "this" in the County, then it will come in as "this" within the City. That is what is being done with regard to the UPAA. If Mr. Strickler's question is what can be built within that zone, he can go to the second floor, page LU-11, single family district is R5. They can build what they have already been approved to build. Things happen, and changes happen, property changes, and property gets sold, so

one can read there and see that another developer can purchase without them going forward and put in a care facility or something like that.

Mr. Strickler said he was not sure what position the City had regarding the setback issue. Now he has heard that the City has to adopt what the County granted. That is fine with Mr. Strickler. Now he asks, what does he have to live with? Does he have to live with someone building right up next to his fence? He will find the plat and find out what the developer is proposing at this time.

**Steven Minichiello**, 600 SW Dillan Drive, Beaverton, OR 97006 wished to address CPA99-00022/RZ00013. Mr. Minichiello lives not far from the Hendrickson property. He would like to get a little more information and an understanding of the proposed development as far as the plan. The Commission stated previously that the Commission would adopt this property as to what the County had originally considered. On page 13 of the Metro Function Plan, he saw different numbers. Chairman Maks explained that he said they would adopt as identified in the UPAA, at times they do not match 100%. Mr. Minichiello asked if this is one of the times they do not match. Chairman Maks replied, "Possibly." In other words, the County has an R9 which would equate to 4,000 square foot lots, and the City does not have a zone that accommodates that. This is a perfect case of where perfect designations do not match up. This is why there is a signed legal document.

Mr. Minichiello inquired whether he should consider, according to the chart on page 13, that the intent is 14 persons (single family homes) per acre. Chairman Maks explained that this is a Metro designation and asked staff to address this issue. Mr. Salvon explained that the City is required to meet Metro's density requirement of 14 persons per acre, at the minimum. For the Hendrickson property, they can accommodate up to 14.93, the way it works out. However, that is not necessarily the intent of the developer. The number might be under that, but that is the ceiling of what he is allowed to go to.

Mr. Minichiello asked Mr. Salvon to explain whether 14.93 is the minimum or the maximum. Mr. Salvon responded that it is the minimum density, but also the maximum number of persons. Minimum density is the number of units per acre the City is required to have. He was not sure what R7 translates to.

Chairman Maks stated that R7 is basically 5 units per acre. Mr. Salvon continued that if an average household size is say 2, one could come up with the persons per acre as well.

Mr. Minichiello further inquired regarding the annexation acreage under consideration, is almost 2 acres. . . 1.98 acres on page 5. Does that include BPA? Mr. Salvon answered yes, it does include the BPA.

Mr. Minichiello continued that if the property includes BPA, (see Exhibit A-1, page 23) the BPA represents approximately 1/4 acre. Mr. Salvon explained that this number does include

the BPA and the property, however, this number is a ratio, up to 14.93 persons per acre of developable land. The BPA is not developable land. One would apply this number to developable land.

Mr. Minichiello responded that he just wanted to clarify. If the BPA is 1/4 acre, than the developable land is roughly 1.75 acres. The amount of families for that tract of land would be roughly 25. The reason he took the BPA into the remarks, was he did not understand why that needed to be included within the annexation, since it is open land. What is the purpose? Chairman Maks answered that it was part of the original annexation to the City. It was part of the annexed land.

Mr. Minichiello stated he understood from the documents, that the intent is to leave the land "as is" and the BPA will consider it to be open. Chairman Maks told Mr. Minichiello he needed to talk with the BPA regarding their stand. Mr. Salvon stated that the BPA land is considered a right-of-way and it is exempt from being developed.

Mr. Minichiello noted that there are power lines on that property and as part of the green belt, a consideration to add a bicycle path, which is an extension of what is on Nike property as a bike path, would be a good idea. He did not know if the City would take that into consideration, but Mr. Minichiello would be for that bicycle path extension. He also inquired about what type of housing is proposed for this property?

Chairman Maks stated that this was not an issue before the Commission at that time.

Mr. Minichiello said he understood from the previous discussion that he needed to find out the information.

Chairman Maks told him he was not aware that any housing is planned on being developed at this time.

Mr. Minichiello understood that the annexation was a part of this meeting. In terms of the annexation, he inquired if the intent of the annexation was to be as a residential district. Chairman Maks replied that the zone is identified in the Staff Report as residential.

Mr. Minichiello asked if any other type of purpose was proposed, mixed use, commercial, or any other. Chairman Maks reiterated that the zone as specified in the Staff Report is residential. Also if one checks in the LU Section, under a conditional use permit, they can put a church or other buildings that are not houses. He stated that the Commission is adopting this zone as per agreement of the UPAA. Mr. Minichiello can then look up R7 zone, and find out what is allowed under that zone. It will explain in three pages (LU80LU10) what is allowed outright in the zone and what is allowed under a condition use permit within the zone, and what is completely prohibited.

Chairman Maks had one question for Mr. Bunnell or Mr. Salvon. If the developer would come forward with a different application, would the setbacks be "off" or what if they would stick to what they were approved to do with very little modification? Mr. Bunnell replied that everything needed to be started from the beginning, complete new application unless they apply for modifications.

Chairman Maks reflected that there were seven or eight hearings on the flexible setback code. They then decided to adopt what they were approved for, otherwise they would build anyway, then be annexed.

Commissioner Kirby asked Mr. Bunnell regarding page 3 of the Staff Report, that since the effective date of the Hendrickson annexation is December 9, 1999, can the Commission approve before the effective date. Mr. Salvon answered it depended on when it goes to the City Council.

Chairman Maks closed the public portion of the hearing.

Commissioner Wolch answered he would support a motion to approve all three. He felt they had met the criteria and administrative action on the part of the Commission.

Commissioner Heckman agreed with Commissioner Wolch.

Commissioner Kirby answered even though he had concerns about table 4, because the Chairman and staff helped him understand it, he agreed it met the specific criteria and he supported it.

Commissioner Voytilla also stated he was in support of the motion, that it met the applicable criteria and it is administrative.

Commissioner Dunham agreed with the other Commissioners.

Chairman Maks noted that most of these were administrative, though the flexible setback on Murray Ridge are a bit different. The annexation takes place and everything is done by the UPAA, he pointed out to Mr. Strickler that in essence if they would not be annexed, they would be building what they are building now within the County, doing what they were approved to do. The Commission is taking them into the City within those guidelines. He also pointed out to Mr. Minichiello that he should read the section to find out what is allowed within that zone and the positive thing about when anything is developed within the City of Beaverton, it will not go to one person who approves the land use, but will go in front of either the Commission or the Board of Design Review, seven individuals, fellow citizens, who will make the decision with regard to the land use application. Chairman Maks was in support of the applications as presented.

Commissioner Heckman noted that the flexible setback was handed to the City by Washington County. He liked the system of several years ago where all abutting property owners had to consent to a flexible setback. This was not applicable in this case.

Commissioner Heckman MOVED and Commissioner Voytilla SECONDED a motion for approval of CPA99-00022, the Hendrickson Comprehensive Plan Amendment, based on the criteria established by the staff and the application meets those criteria.

The question was called and the motion CARRIED unanimously.

Commissioner Heckman MOVED and Commissioner Voytilla SECONDED a motion for approval of RZ99-00013, the Hendrickson Rezone Application. The Rezone Application meets all the criteria designated by staff..

The question was called and the motion CARRIED unanimously.

Commissioner Kirby MOVED and Commissioner Voytilla SECONDED a motion for approval of CPA99-00023, Murray Ridge Comprehensive Plan Amendment, based on the facts and findings of the Staff Report and meeting the criteria.

The question was called and the motion CARRIED unanimously.

Commissioner Kirby MOVED and Commissioner Voytilla SECONDED a motion for approval of RZ99-00014, Murray Ridge Rezone. based on the facts and findings of the Staff Report and meeting the criteria.

The question was called and the motion CARRIED unanimously.

Commissioner Dunham MOVED and Commissioner Kirby SECONDED a motion for approval of Flexible Setback (FS)99-00026, Murray Ridge Flexible Setback, as corrected on the Staff Report, page 2, meeting the criteria.

The question was called and the motion CARRIED with five in favor and one abstention by Commissioner Heckman.

Commissioner Voytilla MOVED and Commissioner Wolch SECONDED a motion for approval of CPA99-00024, Lodato Comprehensive Plan Amendment, based on the findings and facts of the Staff Report meeting applicable criteria.

The question was called and the motion CARRIED unanimously.

Commissioner Voytilla MOVED and Commissioner Kirby SECONDED a motion for approval of RZ99-00015, Lodato Rezone, based on the findings and facts meeting applicable criteria contained in the Staff Report.

The question was called and the motion CARRIED unanimously.

### **APPROVAL OF MINUTES**

Chairman Maks asked for any salient additions, corrections or modifications to the Minutes of September 29, 1999.

Commissioner Heckman MOVED and Commissioner Wolch SECONDED a motion to approve September 29, 1999 minutes as presented.

The question was called and the motion CARRIED unanimously.

Chairman Maks asked for any additions, corrections or modifications to the minutes of October 13, 1999.

Commissioner Dunham noted that on page 10, second to last paragraph, fourth line from bottom, stated in the section should be reflecting Chapter 60.55.25.

Commissioner Voytilla noted on page 4, fifth paragraph in discussion about traffic fine. He thought the word "fee" was used. He asked other Commissioners and it was okay as stated in minutes.

Commissioner Kirby noted on page 15, in the fourth paragraph, asked if words were missing. Response was no.

Commissioner Dunham noted on page 16, last paragraph, the name of the street should be Clifford.

Commissioner Kirby MOVED and Commissioner Dunham SECONDED a motion to approve the October 13, 1999 minutes as amended.

The question was called and the motion CARRIED unanimously.

Chairman Maks stated for the good of the order, on December 15, 1999, at noon there will be a luncheon for the staff in the 3<sup>rd</sup> floor conference room.

The meeting **ADJOURNED** at 8:50 p.m.